

## § 952.8

(2) Direct Respondent to cease and desist from engaging in conduct warranting the issuance of an order authorized by 39 U.S.C. 3005(a);

(3) Direct that postal money orders drawn to the order of Respondent not be paid for 45 days from date of the tentative decision;

(4) Direct that mail addressed to Respondent be forwarded to designated facilities and detained for 45 days from the date of the tentative decision subject to survey by Respondent and release of mail unrelated to the matter complained of;

(5) Tentatively assess such civil penalties as he considers appropriate under applicable law; and

(6) Provide that unless Respondent presents, within 45 days of the date of the tentative decision, good cause for dismissing the complaint, or modifying the tentative decision and orders, the tentative decision and orders shall become final.

(c) The Judicial Officer may, upon a showing of good cause made within 45 days of the date of the tentative decision, hold a hearing to determine whether the tentative decision and orders should be revoked, modified, or allowed to become final. Should a hearing be granted, the Judicial Officer may modify the tentative decision and orders to extend the time during which the payment of postal money orders payable to Respondent is suspended and mail addressed to Respondent is detained.

## § 952.8 Service.

(a) Where Respondent's mailing address is within the United States, the Recorder shall cause a notice of docketing and answer due date (the "Notice"), a copy of these rules of practice, and a copy of the complaint to be transmitted to Complainant who shall serve those documents upon Respondent or his or her agent by certified mail, return receipt requested. Service shall be complete upon mailing. A receipt acknowledging delivery of the notice shall be secured from Respondent or his or her agent and forwarded to the Recorder, U.S. Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078, to become a part of the official record. In the absence of a re-

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ceipt, Complainant shall file an Affidavit of Service, along with returned undelivered mail, or other appropriate evidence of service, with the Recorder. In the alternative Complainant may, in its discretion, effectuate service by hand on Respondent and file an Affidavit of Service with the Recorder.

(b) Where the only address against which Complainant seeks relief is outside the United States, a copy of the complaint, the tentative decision, and a copy of these rules of practice shall be sent by international mail, return receipt requested, by the Recorder to the address cited in the complaint. A written statement by the Recorder noting the time and place of mailing shall be accepted as evidence of service in the event a signed return receipt is not returned to the Recorder.

## § 952.9 Filing documents for the record.

(a) Each party shall file with the Recorder pleadings, motions, proposed orders, and other documents for the record. Discovery need not be filed except as may be sought to be included in the record, or as may be ordered by the presiding officer. Each filing after the initial complaint shall be served upon all other parties to the proceeding by the filing party, and an affidavit of such service signed and dated by the filing party shall be included on the last page of such filing, which shall state as follows:

I, [name of filing party] hereby certify that I served the within [title of document] upon each party of record by electronic mail or first class mail on [date].

(b) The parties shall file one original of all documents filed under this section unless otherwise ordered by the presiding officer.

(c) Documents shall be dated and state the docket number and title of the proceeding. Any pleading or other document required by order of the presiding officer to be filed by a specified date must be received by the Recorder on or before such date. The date of filing shall be entered thereon by the Recorder.

(d) The presiding officer may permit filing of pleadings, motions, proposed orders, and other documents for the

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record by facsimile or by electronic mail with the Recorder.

EFFECTIVE DATE NOTE: At 81 FR 40192, June 21, 2016, §952.9 was revised, effective July 21, 2016. For the convenience of the user, the revised text is set forth as follows:

### § 952.9 Filing; docketing and serving documents.

(a) Unless the presiding officer permits otherwise, all documents must be filed using the electronic filing system. Documents submitted using the electronic filing system are considered filed as of the date/time (Eastern Time) reflected in the system. Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark. Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours. Discovery need not be filed except as may be sought to be included in the record, or as may be ordered by the presiding officer.

(b) Documents shall be dated and state the docket number and title of the proceeding. Any pleading or other document required by order of the presiding officer to be filed by a specified date must be received in the electronic filing system or by the Recorder on or before such date. If both parties are participating in the electronic filing system, separate service upon the opposing party is not required. Otherwise, documents shall be served personally or by mail on the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished.

### § 952.10 Answer.

(a) The answer shall contain a concise statement admitting, denying, or explaining each of the allegations set forth in the complaint.

(b) Any facts alleged in the complaint which are not denied or are expressly admitted in the answer may be considered as proved, and no further evidence regarding these facts need be adduced at the hearing.

(c) The answer shall be signed personally by an individual Respondent, or in the case of a partnership by one of the partners, or, in the case of a corporation or association, by an officer thereof.

(d) The answer shall set forth Respondent's address, electronic mail address, and telephone number or the name, address, electronic mail address, and telephone number of an attorney representing Respondent.

(e) The answer shall affirmatively state whether the Respondent will appear in person or by counsel at the hearing.

(f) In lieu of appearing at the hearing in person or by counsel, Respondent may request that the matter be submitted for determination pursuant to §952.17(b)(10).

### § 952.11 Default.

(a) If Respondent fails to file an answer within the time specified in the notice of docketing and answer, Respondent may be deemed in default, and to have waived hearing and further procedural steps. The Judicial Officer may thereafter issue orders and/or assess civil penalties without further notice.

(b) If Respondent files an answer but fails to appear at the hearing, Respondent may, unless timely indications to the contrary are received, be deemed to have abandoned the intention to present a defense to the charges of the complaint, and the Judicial Officer, without further notice to Respondent, may issue the orders and/or assess civil penalties sought in the complaint.

(c) If Respondent or Complainant fails to respond to or comply with an order of the presiding officer, the party may be held in default, and absent good cause shown, the party may be deemed to have abandoned the intention to present a defense, or to prosecute the complaint, and the presiding officer or Judicial Officer, without further notice to the offending party, may, as appropriate, dismiss the complaint or issue the orders and/or assess civil penalties sought in the complaint.

### § 952.12 Amendment of pleadings.

(a) Amendments shall be filed with the Recorder.

(b) By consent of the parties, a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing and, provided that the amendment is reasonably within the scope of the proceeding initiated by the complaint, the presiding officer rule on the motion as he or she deems to be fair and equitable to the parties.

(c) When issues not raised by the pleadings but reasonably within the